

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

James Sharkey,

Petitioner,

v.

Brian Williams, et al.,

Respondents.

Case No.: 2:20-cv-00253-KJD-DJA

**Order**

This is a federal habeas proceeding under 28 U.S.C. § 2254 brought by James Sharkey challenging his state court conviction for battery constituting domestic violence. On June 9, 2021, this court entered an order directing Sharkey to show cause why Grounds 7 and 8 of his habeas petition should not be dismissed as procedurally defaulted. ECF No. 38. Sharkey has not responded to the order, so those grounds are dismissed. Considering claims the court has already dismissed, only Grounds 2, 3, 4(A) and 5 remain before the court for a decision on the merits.

The court notes, however, that, in addition to his failure to respond to the court's order to show cause, Sharkey did not file a response to the respondents' motion to dismiss (ECF No. 28). In fact, Sharkey has not filed anything in this case for well over a year. Thus, the court questions whether this proceeding should be dismissed for Sharkey's failure to prosecute. *See Fed. R. Civ.*

1 P. 41(b). Accordingly, prior to requiring the respondents to answer the remaining claims, the  
2 court will direct Sharkey to show cause why this case should not be dismissed under Rule 41(b).

3 IT IS THEREFORE ORDERED that Grounds 7 and 8 are dismissed as procedurally  
4 defaulted.

5 IT IS FURTHER ORDERED that Sharkey has **30 days** from the date of this order to  
6 show cause why this proceeding should not be dismissed for his failure to prosecute. If Sharkey  
7 fails to respond to this order or show cause within the time allotted, this case will be dismissed  
8 with prejudice.

9 IT IS FURTHER ORDERED that the scheduling order governing this proceeding (ECF  
10 No. 24) is suspended pending further orders from this court.

11 Dated: August 12, 2021



---

U.S. District Judge Kent J. Dawson